

APPROVED

PLANNING BOARD MEETING SEPTEMBER 14, 2015

**Amesbury City Hall Auditorium
62 Friend Street, Amesbury, Ma.**

Meeting called to order at 7:05 P.M.

Present: Robert Laplante, Karen Solstad, Lars Johannessen, David Frick, Ted Semesnyei, Scott Mandeville.

Absent: Howard Dalton.

Also Present: Nipun Jain, City Planner; Paul Bibaud, Recording Secretary.

MINUTES:

Special Meeting – August 3, 2015: Robert Laplante motion to approve, seconded by Lars Johannessen. AIF.

Executive Session Meeting – August 3, 2015:

Motion by Robert Laplante to approve minutes with one minor typo on page two.

Motion was seconded by Ted Semesnyei. AIF.

August 24, 2015 Meeting: Robert Laplante motion to accept, seconded by Lars Johannessen. AIF.

ADMINISTRATION:

**60 Merrimac Street- Hatters Point- SITE PLAN – PHASE II-
Supplemental Documents - Dated Aug. 24, 2015 for PLB review of revised
materials since PLB decision. Representative Kenneth Feyl, JD LaGrasse &
Associates, Inc.**

Robert LaPlante recuses himself as a resident at Hatters Point.

Also to include the following agenda item in this discussion.

60 Merrimac Street- Hatters Point- PHASE II

Inspectional Services- Consultant for Amesbury- Stantec, M. Leach

Nipun Jain: I will give an update on what has transpired while I was away last month. There are 3 primary issues that relate to the PLB decision on this project and the conditions of that decision prior to start of construction activities. First is the building design as it relates to the use of eyfs on the façade. There was a subcommittee meeting with the applicant. Two members of the PLB met with the developer's development team this past Thursday, and had a very productive discussion about the use of eyfs in the building design. There was a set of recommendations that came out of the subcommittee approving use of the eyfs and I believe they have the product that they intend to use for you to see here tonight as well. Along with those recommendations the subcommittee recommended that the PLB allow the use of that material pursuant to certain conditions that were outlined. The second issue was the proposed shoring up of Merrimac Street along the project site. There were changes proposed by the applicant with the retaining wall and tie backs that would be used during the construction of the PHASE II of this project. There is a recommendation from DPW that they agree in principal with the proposed engineering technique being proposed by the applicant. The detailed engineering drawings for that are still to be reviewed and approved by DPW and the PLB consultant, Stantec. So in principal, there is an agreement that the alternative being

proposed in lieu of sheet piling is acceptable, but there are engineering details that need to be and endorsed by DPW before that can move forward. The construction easements that are necessary that need to be approved / endorsed by the city before that part of the project can be constructed. The third issue was more housekeeping, as far as they can show that the various documents that need to be provided to the PLB as per the decision. The architect provided a detailed package last week for the board for review.

Stantec has been able to go through that package. I got a memo late this afternoon indicating that they are reviewing some of the documents, given the number of documents in the package, mostly pertaining to the retaining wall aspect of the engineering drawings. They have a few minor edits or clarifications that they want on the plan set itself. In consultation with DPW, they have asked the utilities and we've passed along that memo to you, Chris, so you can include that. The goal for tonight for the applicant is to get the mylars endorsed. I asked them to hold off on printing the mylars until they have reviewed the memo from Stantec, because I wasn't sure when we would get it. Now that we have it, you can review it and make those minor edits to your plan sets so that we don't have to print them out twice. So those are the three broad categories under which the project status lies. At this point, the planning office recommends that they have made substantial forward movement in complying with the PLB decision on the various items that needed to be addressed. The applicant is looking to move forward on preparing to start construction, and it will take time to mobilize and get to that point. So if the PLB would like to move this forward to the construction phase, I recommend that the board allow a pre-construction meeting to be scheduled with Stantec in the next couple weeks. This gives the applicant time to look at what needs to appear on the plan set, give us the mylars, so the PLB can endorse at the next meeting, and we will continue to work on other legal documents that need to be finalized so they can be endorsed in time, before construction starts.

Jack McIlhenny, attorney for Hatters Point Capital: Larry Smith couldn't be here tonight. I just wanted to reinforce what Nipun said. We are very committed to breaking ground on this within the next 30 days or so. We're anxious to get those mylars endorsed. The building permit has been submitted. It is in the code compliance review. I hope we're ready in 2 weeks to come back here for signatures.

Nipun Jain: There was a meeting last Friday of Stantec, DPW, and the applicant's technical engineers, so it's moving pretty fast. There were 5 recommendations:

1. The legal document is a legal document. Depending on what City legal counsel decides, it could be permanent, it could be temporary. That will be discussed more in detail once we have a better understanding and clarity on the details that have been submitted and we finish reviewing. So if DPW or its supporting engineering consultants advise, it would be either permanent or temporary.
2. There was a memo prepared by city engineer Pete Manor, addressed to the PLB. It outlines and makes several recommendations as far as the monitoring of the tie back construction and periodic monitoring services, etc.
3. The aspect of doing the engineering review of the submitted details. That has to be completed. The most important point being, regardless of if it is deemed temporary or permanent easement, it's a document that needs to be endorsed by city council, so we're trying to have it finalized before the next city council meeting, so that they are able to endorse it so the project can continue to move forward. That is why, instead of waiting until that point, we wanted to make sure all of the other issues are adequately addressed and the project is ready to move

forward. Then city council endorses the easement. There are recommendations that have been made by Rob after the meeting. We will be working on those 3 as well.

Chris Rokos, Meredien Associates: The tie backs for the walls are detentioned, so they don't serve a purpose after they are in the street, so they can be cut through and they are very deep, upwards of 20 feet, so it is doubtful that any utilities would be buried that deep. But if they are, they can be cut through with a saw and it won't affect the stability of the wall in any way.

Nipun Jain: One of the recommendations is that an as-built be provided to the city, after the tie backs are detentioned, when they are installed, so we have an engineering basis of where they are and when they are detentioned. If any work is undertaken by the city in the right- of- way, then they have an exact location of where they are. The PLB will have an engineering review report from Stantec within a couple weeks. They are working with DPW to make sure that all of these questions are answered. I'll give you a summary of the action, and also the recommendation that the subcommittee has made. Scott and Lars have it and they both endorsed the findings. That allows them to move forward as far as architectural design and materials cost.

The mount of \$5,500 is owed to Stantec at this point and we haven't received any from the applicant. If you are going into a construction phase, then an initial deposit of \$10,000 should be made, so we can at least continue the review work associated with the wall.

Jack McIlhenny: We'll look into that and make sure that happens this week.

Nipun Jain: So if the PLB could vote on a couple things: 1. to make a request for \$5500 and \$10,000 towards supplemental review by Stantec.

Motion by Lars Johannessen of "so moved." Motion was seconded by Scott Mandeville. Vote was all in favor.

Nipun Jain: The second motion that we recommend is to accept the design solutions as recommended by the subcommittee of the PLB with regards to materials and lighting.

Motion by Lars Johannessen of "so moved." Motion was seconded by Scott Mandeville. AIF.

Nipun Jain: The third one would be **to authorize Stantec to meet with the applicant for a pre-construction meeting and to go over the remaining items prior to start of construction.**

Motion by Ted Semesnyei of "so moved." Seconded by Karen Solstad. AIF.

36 Haverhill Road- Amesbury Heights - Decisions Compliance Review

Master Housing Restrictions – Revision 2

Rental Service Agreement – Revision 2

Representative: Sean McReynolds, Corcoran and Jennison Co.

Nipun Jain: This project proponent had submitted the required information for substantial compliance to the PLB decision. They have submitted alot of information last week, starting Sept. 8-9-10-11. We're working through all of those documents, but the summary of that is they have provided alot of information that is satisfactory for the PLB decision. There are still some open items, such as the legal documents associated with easements, covenants, affordable housing restriction, marketing plan, etc.

What the applicant is seeking from the PLB is they are in the process of getting the title to the property. Then they will work on these legal documents for a variety of legal reasons other than have the current property owner prepare those and then to create

another set of legal documents. Also, to get their financing in place so they can mobilize their construction. So at this point, what they are looking for is confirmation of the PLB that the applicant has submitted the majority of the documents, in compliance with the board decisions. There are some open items which they have acknowledged in their letter addressed to the PLB dated Sept. 10, 2015, and to request the board to authorize the pre-construction meeting with the PLB's chosen consulting engineer, Stantec, and also to also acknowledge that the applicant may apply for any other permits that are needed to start the construction activity, provided the remaining open items are adequately addressed as per the PLB decision prior to start of any construction activity. There was really no major engineering aspect that needed to be reviewed by the PLB. The board's consulting engineer has reviewed the plan set, and I believe the applicant submitted mylars, which the PLB endorsed on Aug. 24, 2015. A few edits needed to be made on 5 sheets, which we have received. I did receive a memo from Stantec later this evening which outlines the status of the conditions prior to start of construction. That's where we are in the process. The applicant understands and acknowledges that there are open items, and if the PLB moves forward with our recommendation, we can write a letter to the applicant acknowledging what is open and authorizing them to move forward with a pre-construction meeting and also to move forward in making any application for permits to start construction, pending completion of those items. The applicant is here, if they have anything more to add to that.

William Buckley, for Boston North Properties: Great summary. We've worked very hard to provide everything needed to the PLB. What we're down to is open items, all but for one is execution of the final easement document, which will be between Boston North Properties and Corcoran and Jennison. That document we will execute at closing which is scheduled with the next couple of weeks. Then there are the covenants and the affordable housing restriction that Corcoran-Jennison will actually sign and execute, and provide those to the city. You have drafts for all those documents and they are in legal review. That is the jist of the 7 or so items, along with needing to schedule a pre-construction conference meeting and such. Nipun mentioned there were some minor tweaks to the mylars that we presented last week, Of the 5 sheets, there was one little note missing, and on another, there was a little line missing in the turning radii on a curb corner. So we are looking for authorization to schedule a pre-construction conference and asking the PLB to approve the form of some of the documented that we've submitted, affordable housing restriction which was provided to city council as well as attorney Jonathan Witten on behalf of the PLB. We are also looking for guidance as well on erosion control and sedimentation bond amount for tonight's meeting. At least the ability for the board. Stantec said they would like a little more than what was provided.

Nipun Jain: As far as open items go, there are five open items pertaining to legal documents, which Bill had enumerated and Corcoran-Jennison want to take upon themselves, once they get title to the property. Then you have two bonds that need to be in place, and that's the second part of things, and then there is the whole limit of work, establishment of erosion control, and all of those, prior to start of construction. So that's the three broad categories. We've already discussed where the legal documents stand. My only hesitation in recommending approval of the form is that we are waiting for comments that might be important to legal council's opinion, then it may change things and we'd have to do it all over again, so I choose to wait on that for that reason. The bonds, we did get a letter from the proponent as far as what they believe is the limit of work for erosion control. Looking at it more closely, there are some areas that will be

disturbed that are outside of the site itself on abutting property, but are key to laying utilities, such as the sewer connection, So their recommendation verbally and I think in the memo too, they wanted that item to be included to make sure that any earth work that is moved, especially that close to a public way, is taken care of. So it isn't big, but will have to be hashed out in the next couple weeks. So if we can get the project on a track where we know what needs to be done and you guys can start assigning so we can come up with a schedule that can be implemented. An investor in this project, to the tune of \$40M or so, and part of their closing documents, in order for us to go to committee, is they need what they refer to as a foundation permit. We're not asking at this point to actually construct buildings. We're looking for a permit to start construction activity, with the ability to construct a foundation. We met with Denis on this, and he basically said he's satisfied with what we'd be looking for. It's a matter of PLB being willing to allow or authorize Denis to move forward and issue that permit. I think at, or just after, closing, we'd be able to provide what would be 100% of all these conditions.

Nipun Jain: To clarify what Bill is saying, I did speak to the building inspector with regard to your meeting and what his opinion was. He reiterated what I had suggested to you, that he understands what you are seeking and what would work for you, but at the same time, he wants to insure that A. the bonds are in place before anything happens. He was only talking about a foundation, to the extent that would allow you to do the site work, because some of the foundations involved are drive under garages, which have to be built along with the site creating work, which doesn't necessarily mean that allows you to put up the building. So he clarified that as long as PLB is satisfied with where the project stands, and there is a clear understanding that the applicant has to do certain things before they can fully start construction activity, then he is willing to go forward with the approach that they are recommending here. So what you're saying is: Since this body (PLB) does not issue foundation permits or building permits, you are basically saying that the applicant has provided substantial information that is in compliance with the PLB decision, except the items that I broadly categorized, and once they are completed, the project can move into physical construction activity. But if the applicant wants to apply for other permits that would be things like foundation or building permits, they can certainly do that. You're not going to prevent them from making that, because your decision had certain requirements prior to endorsement. Now you are at that point, where you can actually endorse the plans, because all of these plan updates have been made.

So A. you can endorse the remaining five sheets, so that would mean the final plans are endorsed. B. Write a letter to the applicant, so that they can move forward with their financing, etc.

They have submitted their legal documents and have done all that they could do to this point. PLB has to approve or endorse those legal documents. The reason the PLB cannot endorse those yet is because they are not in their final form, because they are still being reviewed by other parties involved in the review and approval process, such as the state. So the developer cannot do more other than submit what they believe is required by the decision or by the project. Bonds, they have submitted what they believe will be the bond amount. It's being reviewed, getting comments, they will update that and give us the money. They cannot do the erosion control measures on the site, they cannot physically install, which is required prior to start of construction until the board authorizes pre-construction meeting. So they are requesting A. the PLB to allow a pre-construction meeting, so they can install the erosion control, which would then allow them to start

construction activity. Some of these things may be envisioned as do this and then you can move forward. Yes, that is true. But it's a matter of saying we have what we want, and let the applicant have some flexibility in when they can submit the actual recorded documents. So we have really tried to reach a balance where we, as the regulatory agency, have what we need to show that the project complies with the decision, with a little bit of latitude to the applicant, knowing that they really cannot do much work within that latitude, because we can stop work through our consultants, through our inspectional observation, if they have not complied with the open items. So we will write those, and have the applicant acknowledge the fact that these items are open, and they know that.

Sean McReynolds, Corcoran and Jennison: We've submitted the drafts forms of the Affordable Housing Agreement per the city's comments. We're just waiting for DHCD final comments on our draft to enter into our final form.

Nipun Jain: There are two basic action items. 1. to endorse the remaining five sheets. That would establish the final plans. To authorize the pre-construction meeting with the inspectional engineer, Stantec, for this project. 2. to acknowledge that the applicant can move forward with the project, such as applying for other permits as may be necessary, provided they adhere to and complete the remaining open items as identified in the letter to be submitted on behalf of PLB to the applicant.

Ted Semesnyei makes a motion to authorize the pre-construction meeting with Stantec and the Amesbury Heights development team. Motion was seconded by Lars Johannessen. AIF.

Scott Mandeville makes a motion to give the applicant and inform the building inspector that the applicant can go forward with a foundation permit and other construction things, based on the fact that they will complete pending the completion and submission of the required documents. Motion was seconded by Karen Solstad. Robert LaPlante wished to make an amendment to the motion in that his motion was premised on the submission of the documentation. I'd like to amend that to "submission in an acceptable form".

David Frick: So amended. Other comments? All in favor. Unanimous.

92 Lake Attitash Road (Ryan) – Planning Board Discussion Only.

Representative: Tom Hughes, Hughes Environmental.

Planning Board to determine if any other action is required under the Subdivision Control Law Decision

Tom Hughes, Hughes Environmental, on behalf of Jim Ryan, owner:

Mr. Ryan, who is elderly, accesses the lake along with other residents of the original subdivision, down his driveway and over a set of stairs. The full passway extends through the shrubs and over a retaining wall on the other half of the right-of-way. Mr. Ryan goes down to a set of stairs, then to another set of stairs to the lake. When he repaved the driveway, you can see what happened is, he connected the driveway to the concrete apron at the top of the stairs. He got in trouble with ConCom, we went to them after the fact to permit that, and part of after the fact getting the permit, with the installation not just within his half of the passway but also on his property of a trench drain that will bring water outside the passway and infiltrate it. During that process of permitting, Nipun suggested that since this was work in a passway that is shown on a subdivision plan, that it would be prudent to just write a letter to the PLB advising you of what had taken place. Then just come in under correspondence. So what I gave you includes the engineering

plans for the trench drain, which is necessary, due to significant winter accumulating sand. Over the last couple winters, winter plowed sand from the street has buried the bottom step on the stairs. So we're removing the sediment, then taking the water and putting it through an infiltrator. Nothing that Mr. Ryan did originally, nor has done, will impede passage in any way. So it is consistent with the original purpose of the passway. In general, it is a really minor project and within the passway.

Nipun Jain: All ways that are created under the Subdivision Control Law under the purview of the PLB. Even if they are private ways. The point I made to Tom is, confirm that you are not changing the layout of the right-of-way, confirm that you are not going to obstruct access to the adjoining property owners, who have a right to pass and repass, or as stated in their deeds, and that you are not making any improvements to the way, which would have a direct or indirect impact to other existing ways. This is more just a housekeeping for the property owner, because he was hearing from other properties owners that changes were being made without endorsement of the PLB. So there is no material change to the layout or to the access and right to passage by any abutters. Tom just needs to confirm that for the board so that no further action is need from the PLB, unless the PLB sees otherwise.

Motion was made by Robert Laplante that we approve the work that has been done on this property, as approved by ConCom, and that no further action is needed by the applicant, in terms of application before the PLB. Motion was seconded by Scott Mandeville. AIF.

**99-101 Friend Street – Corrected As-Built Plan Final – P. Manor, DPW memo
Applicant: Mark Wojcicki**

Nipun Jain: I read to you the memo from Pete Manor (city engineer) on that item. It says they have done what was asked of them (developer), completing all obligations on the project, other than a recommendation on some final submission of CAD drawings and electronic files, which I believe has been communicated to the developer/applicant, but I have not seen anything. **My recommendation is to authorize the release of the remaining amount, but not to officially release the paperwork at the administrative level until we have received those documents.**

Motion of “so moved” was made by Scott Mandeville and seconded by Lars Johannessen. AIF.

**37 Middle Road – Eastern Lights- Performance Bond Acceptance
Cont. from Aug. 24th per Frank Valerelli**

Motion by Lars Johannessen to continue this to Sept. 28 meeting. Motion was seconded by Robert Laplante. AIF

Nipun Jain: We will need to find out from the applicant what is their plan to move forward. Nothing is being done. Horsley-Witten has not been called to the site to inspect anything. They have not attended our PLB meetings. We need to know from them what their plan is. We approved continuing to Sept. 28, but we should get some opinion from DPW as far as what they believe may be a matter of concern before the construction season closes out. If the city has to pull the bond or sell the lots to complete road, they will be the ones who will be doing it. We're looking at performance bond acceptance. **We'll wait to hear from the applicant to hear what is going on.**

Request for Endorsement of Final Plan(s)

87-89 Haverhill Road, Shea Concrete Products

Supplemental Information for Storage Building

Applicant: George Saurman / Saurman Construction Company

Motion was made by Scott Mandeville that the PLB endorse the final plans for Shea Concrete. Motion was seconded by Lars Johannessen. AIF.

56-58 South Hampton Road – Locke Hill Lane

Performance bond and request for lot(s) release.

Applicant: B. Couillard

Nipun Jain: The applicant is looking for two things: 1. to establish a performance bond for the work that remaining pursuant to the approved subdivision plans, and once the performance bond is established, they request 2. the release from the covenant to build and sell the lots. They are requesting release of lots under covenant. You have the two latest reports in your packets from BSC documenting the status of improvements to date on the right-of-way, as well as drainage and the report documents that the site is in good condition as far as work done to date. So two things, 1. the remaining work was estimated and reported by BSC as being in the amount of \$75K, along with the multiplier that the board has, it comes to \$100K worth of work to complete. BSC recommends we accept it as performance bond. So that is one item that the PLB will have to endorse. Once the performance bond has been established, then the lots have to be released. Based on the decision, there are a couple items that need to be provided by the developer. But given that the site is in good shape, and the developer has been working to keep the site tight, and make sure there are no erosion issues, and roadwork is in good condition, we recommend that you at least release 6 lots for which the foundations have already been placed, and that they can place in the coming week or two, and the remaining 7 be released by the next meeting, provided the developer submits the interim as-builts and the as-builts required for the PLB decision for drainage and right of way improvements, as required by PLB decision. The recommendation is to release lots 3-4-5-13-14-15.

Motion was made by Lars Johannessen to accept a performance bond for \$100K.

Motion was seconded by Ted Semesnyei. AIF. Motion was made by Karen Solstad to release lots 3-4-5-13-14-15 for foundations and building. Motion was seconded by Scott Mandeville. AIF.

Request for Full Release of Remaining \$15K-LOC: 20 Cedar Street (M. Assia and M. Wynkoop)

Nipun Jain: They were before the PLB at the last meeting and got releases. There are two items. It is in the decision that landscaping has to go through two growing seasons. He's questioning why the board is retaining a substantial amount of money for the plantings (Chinburg). He believes \$2K is sufficient to replace any plants that would need replacing that don't survive the 2 year time period. More importantly, there was one item that the DPW had put in, via a letter from Pete Manor, about the downspout at the corner of Poplar and Cedar Streets, which was dumping water right on the sidewalk handicap ramp. He wanted that to be connected to the storm water system and catch basin so there would never be icing. I don't believe we've gotten a letter from city engineer saying he is satisfied. I tried to explain to the applicant that he can probably get much more released for landscaping, but you have to do the work that pertains to public safety, especially

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with winter coming, or get a letter of support from DPW with whatever solution you propose or plan of action you have to address that issue. I've not seen one. So I don't know what to recommend. It's up to the board to determine. But we need to have a decision so you can render a decision accordingly. So my suggestion to you is, Find out from DPW if this has been adequately addressed or not, or if not, what do they still anticipate. That will give you a strong basis for continuing this item to the next meeting, and having something concrete before you. Right now, I'm not aware of whether that issue was completely signed off or not.

Motion was made by Scott Mandeville, wondering if it was worth it to put specific dollar values on the two items or no? (board said no). My motion is to retain all of the money until such time as some or all of these items have been rectified, at which point, they can come before PLB to seek a partial release. 1. downspout onto handicap ramp, and 2. landscaping must survive a second growing season. Motion was seconded by Ted Semesnyi. AIF.

BILL PAYMENTS:

Horsley-Witten Group – Eastern Lights Subdivision, 37 Middle Road, Amesbury

Review Fee Balance after payment of this invoice: \$4,650.00

Motion was made by Karen Solstad to pay Horsley-Witten \$1558.

Motion was seconded by Ted Semesnyi. AIF.

Stantec – Amesbury Heights Compliance Review- period ending 8-7-2015 for

\$4989.90. Michael Leach and Gerard Fortin, Stantec

Motion was made by Robert Laplante to pay the invoice #941815 for \$4089.90.

Motion was seconded by Karen Solstad. AIF.

Motion to adjourn was made by Lars Johannessen, seconded by Robert Laplante. AIF.

Meeting was adjourned at 8:48 P.M.